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8
9 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. AR 2006-109

12 ANDRE CARL PITTS, JR.
6601 Marcelle Street
13 Paramount, CA 90723

STATEMENT OF ISSUES

14 and

15 1509 Channelwood Drive
Whittier, CA 90601

16 Occupational Therapy Assistant License

17 Respondent.
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20 Complainant alleges:

21 **PARTIES**

22 1. Heather Martin (Complainant) brings this Statement of Issues solely in her
23 official capacity as the Executive Officer of the California Board of Occupational Therapy
24 (Board), Department of Consumer Affairs.

25 2. On or about September 11, 2006, the Board received an Initial Application
26 for Licensure/Certification as Occupational Therapy Assistant from Andre Carl Pitts, Jr.
27 (Respondent). On or about August 31, 2006, Andre Carl Pitts, Jr. certified under penalty of

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1 perjury to the truthfulness of all statements, answers, and representations in the application. The
2 Board denied the application on September 25, 2006.

3 JURISDICTION

4 3. This Statement of Issues is brought before the Board under the authority
5 of the following laws. All section references are to the Business and Professions Code unless
6 otherwise indicated.

7 4. Section 2570.28 states:

8 "The board may deny or discipline a licensee for any of the following:

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10 (d) Making or giving any false statement or information in connection with the
11 application for issuance or renewal of a license.

12 (e) Conviction of a crime or of any offense substantially related to the
13 qualifications, functions, or duties of a licensee, in which event the record of the conviction shall
14 be conclusive evidence thereof.

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16 (i) Committing any act punishable as a sexually related crime, if that act is
17 substantially related to the qualifications, functions, or duties of a licensee, in which event a
18 certified copy of the record of conviction shall be conclusive evidence thereof.

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20 (o) Committing any act that would be grounds for denial of a license under
21 Section 480."

22 5. Section 2570.26 states:

23 "(a) The board may, after a hearing, deny, suspend, revoke, or place on probation
24 a license, certificate, inactive license, inactive certificate, or limited permit.

25 (b) As used in this chapter, "license" includes a license, certificate, limited
26 permit, or any other authorization to engage in practice regulated by this chapter.

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1 (c) The proceedings under this section shall be conducted in accordance with
2 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government
3 Code, and the board shall have all the powers granted therein. therein."

4 6. Section 480 of the Code states:

5 "(a) A board may deny a license regulated by this code on the grounds that the
6 applicant has one of the following:

7 (1) Been convicted of a crime. A conviction within the meaning of this section
8 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action
9 which a board is permitted to take following the establishment of a conviction may be taken
10 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,
11 or when an order granting probation is made suspending the imposition of sentence, irrespective
12 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

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14 (3) Done any act which if done by a licentiate of the business or profession in
15 question, would be grounds for suspension or revocation of license.

16 The board may deny a license pursuant to this subdivision only if the crime or act
17 is substantially related to the qualifications, functions or duties of the business or profession for
18 which application is made.

19 (b) Notwithstanding any other provision of this code, no person shall be denied a
20 license solely on the basis that he has been convicted of a felony if he has obtained a certificate
21 of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been
22 convicted of a misdemeanor if he has met all applicable requirements of the criteria of
23 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering
24 the denial of a license under subdivision (a) of Section 482."

25 **FIRST CAUSE FOR DENIAL OF APPLICATION**

26 **(Convictions of Substantially Related Crimes)**

27 7. Respondent's application is subject to denial under section 2570.28,
28 subdivision (e) and 480, subdivision (a)(3), of the Code in that Respondent was convicted of

1 crimes substantially related to the qualifications, functions or duties of an occupational therapy
2 assistant, as follows:

3 a. On or about September 3, 1997, Respondent was convicted by the Court on
4 a plea of nolo contendere to one count of violating Penal Code section 372, a misdemeanor,
5 (maintain public nuisance), in the Municipal Court of South Bay Judicial District, County of Los
6 Angeles, Case No. 94M02515, entitled *The People of the State of California v. Andre Carl Pitts*.

7 b. The circumstances surrounding the conviction are that on or about March
8 10, 1994, Respondent solicited an undercover female Los Angeles Sheriff officer for sexual
9 favors.

10 c. On or about July 1, 1991, Respondent was convicted by the Court on a
11 plea of guilty to one count of violating Penal Code section 261(a)(3), a felony, (rape of an
12 intoxicated person), in the Superior Court of California, County of Los Angeles, Case No.
13 NA005929, entitled *The People of the State of California v. Andre Carl Pitts*.

14 d. The circumstances surrounding the conviction are that on or about
15 September 23, 1990, Respondent drove a female prostitute to an isolated location and forced her
16 to have sexual intercourse with him.

17 e. On or about June 20, 1988, Respondent was convicted by the Court on a
18 plea of guilty to one count of violating Penal Code section 211, a felony, (robbery), and one
19 count of violating Penal Code section 236, felony (false imprisonment), in the Municipal Court
20 of Compton Judicial District, County of Los Angeles, Case No. A647700, entitled *The People of*
21 *the State of California v. Andre Carl Pitts*.

22 f. The circumstances surrounding the conviction are that on or about May
23 29, 1988, Respondent took personal property belonging to another person and violated the
24 personal liberty of another individual by violence, menace, fraud, and deceit.

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1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction Involving Sexual Related Act)**

3 8. Respondent's application is subject to denial under section 2570.28,
4 subdivision (i) and 480, subdivision (a)(3), of the Code in that Respondent was convicted an act
5 punishable as a sexually related crime, as more fully set forth in paragraph 7, above.

6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

7 **(Acts Constituting Grounds for Denial of a License)**

8 9. Respondent's application is subject to denial under section 2570.28,
9 subdivision (o) and 480, subdivision (a)(3), of the Code in that Respondent committed acts
10 which if done by an occupational therapy assistant, would be grounds for suspension or
11 revocation of license, as more fully set forth in paragraph 7, above.

12 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

13 **(False Statements in Connection with Application for Licensure)**

14 10. Respondent's application is subject to denial under section 2570.28,
15 subdivision (d), in that on or about January 2, 2003, in connection with a previous application for
16 licensure with the Board, Respondent made false statements as follows:

17 a. Respondent falsely stated that his conviction for violating Penal Code
18 section 372 (maintaining a public nuisance) was due solely to his presence at a bachelor party
19 where there were paid female entertainers. In fact, Respondent solicited an undercover female
20 sheriff deputy for an act of prostitution, as set forth in paragraph 7, subdivisions (a) and (b),
21 above.

22 b. Respondent falsely stated that he fought the criminal case involving his
23 criminal conviction for violating Penal Code section 372, for three years. In fact, Respondent
24 failed to appear for his criminal arraignment and a bench warrant was issued in April, 1994. The
25 bench warrant remained active for over three years until June, 1997.

26 **OTHER MATTERS**

27 11. To determine the discipline to be imposed on Respondent, if any,
28 Complainant alleges that effective April 28, 2005, in Case No. 2-2003A, entitled "In the Matter

1 of the Statement of Issues Against Andre Carl Pitts, Jr., the Board of Occupational Therapy
2 denied Respondent's application for an Occupational Therapy Assistant license. Further,
3 effective May 28, 2005 the Board denied Respondent's Petition for Reconsideration.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the California Board of Occupational Therapy issue a
7 decision:

- 8 1. Denying the application of Andre Carl Pitts, Jr. for a Occupational
9 Therapy Assistant License;
10 2. Taking such other and further action as deemed necessary and proper.

11 DATED: September 21, 2007.

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14 HEATHER MARTIN
15 Executive Officer
16 California Board of Occupational Therapy
17 Department of Consumer Affairs
18 State of California
19 Complainant

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21 Pitts Statement of Issues.wpd
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